REMARKS

Claims 1-18 are hereby canceled without prejudice, and claims 19-34 remain withdrawn. New claims 36-42 are being added with this amendment. Support for these new claims can be found throughout the specification, specifically at paragraphs 57 and 59, and originally filed Claims 1 and 18. No new matter has been added by these new claims. Favorable consideration of these newly presented claims is respectfully requested.

Claims 1-4, 6-16 and 18 were rejected by the Examiner under 35 U.S.C. §103(a) as being unpatentable over the book "Breads" in view of the book "Professional Baking" and the book "Baking with Julia".

The Examiner cited the book "Breads" for teaching "aesthetic features such as lobes, section, portions or combinations thereof", and for "brushing the dough before baking with glaze such as melted butter glazes to soften the crusts." The Examiner concedes that the "book is silent on the BSV of the product, the use of oil, the properties of the plasticizing agent, partially baking...and refrigerating or freezing the partially finished product."

The Examiner cited the book "Baking with Julia" for teaching "different cutting or indentation". The Examiner cited the "Professional Baking" book for teaching that "the major functions of fats in baked items are to tenderize the product and soften the texture, to add moistness and richness, to increase keeping quality, to add flavor."

The Examiner stated "it is already recognized in the rejection that the **references do not teach partially baking and refrigerating or freezing**...the Examiner's position is that partial baking to form a par-baked product and refrigerating or freezing for long term storage is notorious(ly) well known in the art. Par-baked products for later finish baking to form freshly baked products are notorious(ly) well known in the art." (emphasis added)

The fact that **none** of the references previously cited by the Examiner to make the rejection under this section teach partially baking and refrigerating or freezing clearly

exemplifies the fact that these **previously cited references cannot contemplate the problems associated with par-baked frozen or refrigerated products as currently claimed.**

The claimed invention is directed to a commercially produced dough product that is par-baked and either frozen or refrigerated prior to being distributed and baked into a fully baked product by a consumer. A significant problem with par-baking and then freezing or refrigerating a dough product is moisture loss during proofing, baking and storage. In homemade or made-from-scratch products, the raw dough contains sufficient moisture to provide a tender crumb upon baking, during which time a significant amount of moisture is driven off. The loss of moisture from the surface of the dough during baking provides the desired crust texture typical of homemade or freshly baked made-from-scratch products. Since these products are consumed within a short time after baking, the crumb remains tender and the crust has the desired texture when the product is consumed. Some degree of moisture loss during baking is essential to make a desirable baked product.

If a dough is to be par-baked, and then frozen or refrigerated for later baking and consumption, however, continued moisture loss becomes detrimental, since moisture loss continues during the steps following par-baking, and **is exacerbated during refrigerated or frozen storage.** As a result of this continued moisture loss, par-baked products that are frozen or refrigerated and are subsequently heated to make the final product suffer from various deficiencies as compared to homemade freshly baked products, such as crust separation, crust toughness, and a general lack of freshness, as described in the 4,788,067 reference, described in more detail below.

The claimed invention alleviates this significant moisture loss issue by restricting or reducing dehydration of the dough with the use of a sealing layer. In some embodiments, the sealing layer can work in cooperation with the baking vessel or finishing appliance to reduce or restrict dehydration of the dough. The sealing layer functions to retain the original dough moisture, so that less moisture is driven off during the partial baking step. As a result, not only does the par-baked dough intermediate achieve a desired baked specific volume, the final product, upon reheating the frozen or refrigerated par-baked dough intermediate, has desirable

organoleptic properties comparable to those of a freshly baked, made-from-scratch baked product.

The Examiner cited a number of patents which purportedly "all disclose partially baked dough product for finished baking by the consumer", each of which will be addressed below.

6,063,413 ('413) describes a process for making a pita bread preform, including an intermittent heating, cooling, again heating, again cooling, and finally freezing process to stagnate water vaporization so that the preform retains more moisture than a fully baked product. The consumer then finishes the cooking process, driving off the remaining moisture to make the final product.

4,788,067 ('067) describes a par-baking process having two steam-injection steps during baking to increase the moisture content of the par-baked product before it leaves the oven so as to provide a product having attributes that are closer to a homemade product.

The '413 and '067 references exemplify the problems with moisture loss and quality deterioration in par-baked frozen or refrigerated products The claimed invention is directed to the unexpected discovery that moisture-loss issues in par-baked and frozen or refrigerated products can be overcome by applying a plasticizer-based sealing layer to the dough prior to the final baking step, either onto the dough used to make the intermediate, or onto the intermediate itself after it has been par-baked, but prior to refrigeration or freezing. The sealing layer functions to restrict dehydration of the dough during proofing (if applied to the dough prior to baking), par-baking and storage.

The remaining patents cited by the Examiner, 3,767,422, 4,986,992 and 6,248,388, describe various par-baked and stored products, but none of these references addresses the problems associated with moisture loss in these products. **Not a single one of the references cited by the Examiner teaches or suggests anything with respect to restricting or reducing dehydration** of the dough intermediate with the use of a sealing layer at any time prior to or during the par-baking step.

The Examiner stated "(w)hen the plasticizer is applied to the surface of the dough, it will form a sealing layer, will increase the fluidity of the dough and slows the dehydration because the function of fat is to add moistness and if it is applied on the surface, then it functions as a sealing layer."

The Examiner is using improper hindsight reconstruction to make this statement, and provides **absolutely no rational underpinning or evidence to support this conclusory statement as required under MPEP §2142.** In fact, the Examiner's own statement describes the unexpected nature of this invention. The references cited by the Examiner describe "adding moistness" as one of the functions of fats, but in the claimed invention, the sealing layer **reduces or restricts dehydration of the original dough,** rather than having to add moisture back into the dough, or provide an additional layer of moisture on the dough, after the **original** dough moisture has been driven off.

Nothing in the references cited by the Examiner teaches, suggests, or would motivate or provide any reason for one of ordinary skill in the art to conclude that applying a plasticizing layer would function to reduce or restrict dehydration of the dough and dough intermediate during proofing, par-baking and storage under refrigeration or frozen conditions. This is particularly the case because the Examiner stated that none of the previously cited references teaches par-baking and refrigerating or freezing, and none of the newly cited references directed to par-baking teaches the use of a sealing layer to reduce or restrict dehydration in the dough. As noted above, the Examiner has based the rejections on conclusory statements without **any** rational underpinning in support of those statements. Although some of the newly cited references describe some of the problems associated with par-baked products, particularly moisture loss, not one of them teaches, suggests, or would motivate or provide any reason for one of ordinary skill in the art to use a sealing layer on the dough to solve these problems.

In view of the foregoing, these newly presented claims are believed to be allowable over the cited references, and favorable consideration and allowance of these claims is respectfully requested. The Examiner is encouraged to contact the undersigned attorney in order to advance the prosecution of this application.

Dated: _____

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